

that the Court order that the accused be provided a copy of materials concerning the investigation of the July 27, 1996, bombing of Olympic Centennial Park, and for reasons the accused shows the Court the following:

10.

On July 27, 1996, at approximately 1:40 a.m., a bomb exploded at Olympic Centennial Park. Later that morning, it was confirmed that it was a pipe bomb made of a galvanized steel pipe.

11.

The accused and his co-accused were all incarcerated at the time.

12.

The accused is aware of two individuals in the Georgia area who are known to enjoy talking about bombs (especially pipe bombs), making bombs, encouraging others to make bombs and plant bomb-making components onto other people's property. These individuals (Possible Suspects PS #62 and PS #63), unlike the accused and his co-accused's who are incarcerated, were at large on July 27, 1996, and remain so today.

13.

The affinity for bombs of one of the suspects is documented by government's exhibits recently provided to the accused, specifically Tape #7.

14.

The suspects, PS #62 and PS #63 are not trained, badge wearing agents, but are free-lancers involved in a BATF "dirty tricks" campaign. They have yet to be named by the government as witnesses, and the government has refused to disclose their names. The defense is only aware of aliases used by these individuals in this investigation.

15.

At the bond hearing of April 29, 1996, Special Agent Stephen Gillis testified that there was no connection between this case any "plot" associated with the Olympics.

16.

The Affidavit for the telephone tap on Paul Sullivan, submitted under seal contains an alleged statement by PS #62 and PS #63 (a/k/a CI-1 and CI-2) concerning a January 6, 1996, meeting of the Georgia militia that attempts to associate them with such a "plot." (Affid. Walker, at 5)

17.

The Affidavit for the telephone tap on Paul Sullivan, submitted under seal, contains numerous false statements by a jail house informant "CI-4". The accused never made these statements, and they could only have been elicited at the suggestions of the interviewer. (Affid. Walker, at 13)

18.

Alleged statements by an individual named as "CI-5" further attempt to tie the accused to plans to be carried out at the time of the Olympics. (Affid. Walker, at 15)

19.

These statements were made by these informants prior to June 12, 1996, which was clearly prior to July 27, 1996. In light of the totality of circumstances surrounding this case, this suggests the frightening possibility that a plan by PS #62 and PS #63 to link the accused to a terrorist act at the Olympics, which they themselves would perpetrate.

20.

The accused has offered publicly to assist the F.B.I. in its investigation, along with members of his defense team, and these offers have not been accepted.

21.

To date, no arrest has been made in the Olympic Park bombing in spite of the numerous cameras in the vicinity of the bomb.

22.

To date, there has been no denial by the F.B.I. or any other government official, that PS #62 and PS #63 were involved in the bombing.

23.

Death threats have been received, through F.B.I. officials, by both the accused, just before his arrest, and J.J. Johnson, the latter during the time Mr. Johnson was attempting to have PS #62 and PS #63 brought in for questioning. In light of the totality of the circumstances of this case, it appears that these individuals arrange, through their law enforcement contacts, to frighten those who might expose their illegal activities.

24.

To defend himself against allegations that the accused was associated with the Olympic Park bombing, the accused must explore the possibility that the bombing was perpetrated [by] or connected [to] his accusers, Danny and Kevin Barker. To do so, he will require copies of the following:

- 1) The 911 tapes of the calls placed to the Atlanta police department at approximately 1:00 a.m. on July 27, 1996, which warned of a bomb to explode at Centennial Park;

- 2) All surveillance photos and videotape of individuals seen in that area;

- 3) All photos and videotapes submitted by tourists to assist in the investigation;

- 4) All composite sketches prepared in the course of the investigation.

WHEREFORE, the accused, Robert Starr, III, respectfully requests that the materials listed herein be provided forthwith.

MEMORANDUM OF LAW

Beyond a reasonable doubt has been the standard for criminal trials since *In re Winship*, 397 U.S. 358, 364 (1970):

"Lest there remain any doubt about the constitutional stature of the reasonable-doubt standard, we explicitly hold that the Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged."

The fundamental principle of fairness in a criminal trial is that the Defendant can be found guilty only upon evidence that leads the jury to find him guilty beyond a reasonable doubt.

"[T]he reasonable-doubt standard is indispensable to command the respect and confidence of the community in applications of the criminal law. It is critical that the moral force of the criminal law not be diluted by a standard of proof that leaves people in doubt whether innocent men are being condemned."

Because this is a federal standard, no state can drop below. No state can institute a standard of 51% certainty, a scintilla of evidence, or clear and convincing evidence. A constitutionally deficient reasonable doubt instruction is reversible error because there is no jury verdict within the meaning of the Sixth Amendment without a proper reasonable

doubt instruction. Sullivan v. Louisiana 113 S.Ct. 2078, 61 U.S.L.W. 4518, 4519.

Reasonable doubt is determined by the evidence. It is not a vague or capricious notion, but a doubt based upon reason. It is a doubt that would cause you to hesitate in the most important affairs. Holland v. United States 348 U.S. 121, 126 (1954). If one is not morally certain and convinced of guilt of the accused, that person has a doubt based on reason. Such a doubt arises from the lack of evidence, unsatisfactory evidence, a conflict in the evidence, or a want of evidence.

The Defense must be able to review the breath of the government investigation and all the information generated during its course. The possible suspects, PS #62 and PS #63, are the accused's primary accusers, and he has the right to their compulsory process under the Sixth Amendment. U.S.C.A. VI. The possibility that they were planning a much more serious "sting" and attempted on their own to carry that out in spite of the incarceration of their victims, goes to the heart of their credibility. This is the reason the full extent of any deals between an informant and the government must be produced under Giglio v. United States, 405 U.S. 150 (1972). Brady v. Maryland, 373 U.S. 83 (1963) requires that exculpatory material be provided, and information that could link these accusers with a serious explosive incident is plainly exculpatory.

Part of the theory of the defense of this accused will be that the informants were the true perpetrators of any unlawful acts. This would provide an alternative explanation for facts that might otherwise incriminate the accused. The possibility of their involvement in the Centennial Park bombing would demonstrate a motive for such conduct

which will be essential to his defense. It appears that the government has failed to explore that very real possibility.

The Defense has a right to know, and the government has an obligation to provide, what the government did not do or failed to do; what they did and obtained results that were inconclusive or indicated that the person was not culpable. On the totality of the evidence in the government's possession, that evidence which gives an inference of guilt must be compared to the evidence that they tried to obtain in the same area. The latter infers innocence and must be revealed in discovery.

Respectfully submitted,

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CERTIFICATE OF SERVICE (omitted for public distribution)